

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

JESUS F. CANALES	§	
PLAINTIFF	§	
	§	
V.	§	Case No. _____
	§	
AMERICAN ELECTRIC POWER	§	
SERVICE CORP., DBA AMERICAN	§	
ELECTRIC POWER OF TEXAS	§	
DEFENDANT	§	

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**NOTICE OF REMOVAL**

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TO THE HONORABLE UNITED STATES DISTRICT COURT:

Defendant AMERICAN ELECTRIC POWER SERVICE CORP. (“AEPSC”) (misidentified by Plaintiff as AMERICAN ELECTRIC POWER OF TEXAS), by and through its attorneys, files this Notice of Removal pursuant to 28 U.S.C. §§1332, 1441, and 1446, and in support thereof states as follows:

**I. BACKGROUND**

1. On July 31, 2018, Plaintiff Jesus F. Canales filed his Original Petition in the 79<sup>th</sup> Judicial District Court of Jim Wells County, Texas against Defendant American Electric Power Service Corp. (“AEPSC”), under cause number 18-07-58560-CV.

2. The Original Petition arise out of allegations that AEPSC was negligent by creating an unsafe workplace, thereby exposing the Plaintiff to harmful chemicals.

3. AEPSC was served with summons and the Original Petition on August 3, 2018. AEP filed its Original Answer on August 27, 2018.

4. This Notice of Removal is timely filed pursuant to 28 U.S.C. §1441(a), which provides any civil action brought in the state court of which the District Courts of the United States have jurisdiction may be removed by a defendant.

## **II. BASIS OF REMOVAL – DIVERSITY JURISDICTION**

5. The United States District Court for the Southern District of Texas has diversity jurisdiction over this matter pursuant to 28 U.S.C. §1332 because it is a civil action in which the amount in controversy exceeds the sum of \$75,000, exclusive of costs and interest, and is between the citizens of different states.

6. The Plaintiff's petition states that he is a resident of Texas.

7. Defendant AEPSC is a New York corporation with its principal place of business located in Columbus, Ohio.

8. Removal of this action is proper and timely pursuant to 28 U.S.C. §1441 and 28 U.S.C §1446 because the parties are diverse.

### **III. AMOUNT IN CONTROVERSY AND VENUE**

9. The Plaintiff's original petition seeks monetary relief over \$1million dollars. (See Plaintiff's Civil Cover Sheet).

10. Venue for this removal is proper under 28 U.S.C. §1441(b) because this Court is in the United States District Court for the district and division corresponding to Jim Wells County, Texas, the place where the state court action is pending.

### **IV. PAPERS FROM THE REMOVED ACTION**

11. Pursuant to local Rule 81, the following documents are attached to this Notice of Removal:

Exhibit 1: All executed process in the case;

Exhibit 2: Pleadings asserting causes of action and all answers to such pleadings;

Exhibit 3: The docket sheet;

Exhibit 4: An index of matters being filed; and

Exhibit 5: A list of all counsel of record, including addresses, telephone numbers, and parties represented.

12. AEPSC has served all parties with a copy of this Notice of Removal and forwarded it for filing with the Clerk of the District Court of Jim Wells County, Texas, Cause No. 18-07-58560CV; *Jesus F. Canales v. American Electric*

*Power Service Corp., DBA American Electric Power of Texas;* in the 79<sup>th</sup> District Court of Jim Wells County, Texas, in accordance with 28 U.S.C. §1446(d).

WHEREFORE, Defendant AEPSC respectfully requests that this action now pending in the District Court of Jim Wells County, Texas be removed to the United States District Court for the Southern District of Texas, that this Court accept jurisdiction of this action, and that this action be placed upon the docket of this Court for further proceedings, the same as though this action was originally instituted in this Court.

Respectfully submitted,

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By: /s/ G. Don Schauer

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**ATTORNEYS FOR DEFENDANT  
AMERICAN ELECTRIC POWER  
SERVICE CORP.**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded to the following counsel of record on this the 30<sup>th</sup> day of August, 2018:

**VIA E-FILE AND EMAIL:**

Pascual Madrigal  
Law Office of Pascual Madrigal  
312 El Paso  
San Antonio, Texas 78207

*/s/ G. Don Schauer*

G. Don Schauer